

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS
OF THE BETHLEHEM AUTHORITY**

OCTOBER 8, 2009

The regular meeting of the Board of Directors of the Bethlehem Authority was held on October 8, 2009 in Conference Room B504, 10 E. Church Street, Bethlehem, PA. The meeting was called to order at 3:30 PM by Chairman Mark Jobes, with the following in attendance:

John Tallarico, Vice Chairman
Richard Master, Secretary
Vaughn Gower, Treasurer
James Broughal, Esq., Solicitor
John Filipos, Controller
Stephen Repasch, Executive Director
Sandra Reppert, Administrative Assistant
Daniel Meixell, Special Officer

Chairman Jobes announced a moment of silence in remembrance of former Mayor James Delgrosso, who passed away this afternoon.

APPROVAL OF MINUTES

Chairman Jobes presented the minutes from the regular meeting held September 10, 2009 as circulated. Mr. Master moved to approve those minutes. Mr. Tallarico seconded. Motion passed unanimously.

RECOGNITION OF VISITORS / COURTESY OF THE FLOOR

Chairman Jobes recognized:

- Mr. Stephen Antalics, Bethlehem resident
- Mr. Jeff Andrews, City of Bethlehem
- Councilwoman Jean Belinski
- Mr. David Brong, City of Bethlehem
- Mr. Bud Cook, The Nature Conservancy
- Mr. David McGuire, Lehigh Valley Sierra Club. He queried if his comments on the Wild Creek Plantation agenda item should wait until it is discussed, and Chairman Jobes responded that would be preferred.
- Mr. Neal Kern, Barry Isett & Associates

REPORT OF THE CHAIRMAN

City of Bethlehem AWOP Award Recognition. Chairman Jobes congratulated Dave Brong, Jeff Andrews and the City for receiving the Area Wide Optimization Program Award. At a ceremony held in Town Hall last month, the PA DEP recognized the City for their high quality filtered water. This is quite an achievement to attain.

(It is noted that Don Oaks entered the meeting at 3:35)

Financial Planning Effort – Update. Chairman Jobes reported that discussions are on-going. There was a meeting this past Monday. Mr. Master, Mr. Gower and Mr. Repasch, the Authority's Financial Advisor (PRAG), the City's Financial Advisor (Concord), and City Administration attended meeting. They identified foreseeable problems, BRIF funds availability, and potential operating shortfalls. Some solutions were presented and now the City must make a decision. He asked the Board members present at the meeting to comment, since he was not able to attend.

Mr. Gower said there has been a lot of work done in the past four weeks. Water system capital needs through 2014 were identified and potential solutions to overcome funding those needs were identified. The Authority established what it feels are important financial planning principles since the City operates the water system, and shared that material in advance with the City. It was a positive meeting and understanding of the issues. The City listened and took the responsibility to formalize the actions it is working on. There will be another meeting in the next few weeks to focus on the plan of action.

Mr. Master advised that the City acknowledged its role and responsibilities in the proper financing of the water system and will provide its plan on consultation with the Authority shortly. The City, in addition to providing its full faith and credit support for the system's bonds, is responsible for operating and maintaining the system and providing for capital improvements. Members of the Board expressed concern that going forward, the system does not have sufficient ability to dictate water rates to its customers, and in the aggregate, system revenue. Under our current format, the City must gain approval from the State level PUC, a costly and time consuming process. Further, the concern is that the PUC standards for rate approval are not focused on costs of operation but levels of investment. We asked the City to look at options to change the regulatory format.

Mr. Master also proposed a special meeting to consider the financial status and financial plan for the system going forward, and then properly advise Council and Administration of its views and plans.

Chairman Jobes agrees and would like Mr. Repasch to coordinate a special meeting as discussed. He appreciates all the hard work put forth by Mr. Master, Mr. Gower and Mr. Repasch.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Repasch recognized that our Solicitor has to leave at 4:30 and therefore some of his agenda items will be rearranged for Mr. Broughal's input.

Lehman Bros. Bankruptcy Issue. Mr. Repasch reported he had a conversation with Bond Counsel and PRAG regarding the recent court ruling in the Lehman bankruptcy case that puts the action the Authority took last year at risk. We have been escrowing the monthly payments that would be due to Lehman under the swap agreement in a BRIF sub-account. When Lehman first went into bankruptcy, they owed the Authority money and never paid it. We considered them to be in default. Since then, markets have changed and the Authority has owed Lehman. We have been escrowing the (estimated) monthly payments that would be due to Lehman under the swap agreement for when needed to make payment. In the last two months we have received invoices from Lehman for ~\$14,000 each (prior to this we had not received any invoices). Because of the recent court ruling, Bond Counsel advises to pay the two most recent invoices from the funds set aside in the sub-account.

Mr. Gower commented that, from his perspective, we're no worse off now than before. Other parties to Lehman swaps are similarly consternated by this dilemma. Once interest rates rise and Lehman is put in the position of owing a counterparty, what assurance is there that they will make the payment? It is good advice to pay invoices we receive but nothing prior to that.

Mr. Repasch said Lehman was asked for a written guarantee that they would pay the Authority if markets would swing in that direction, and Lehman would not do that. Given that, Bond Counsel still feels the Authority is at risk and should start paying the invoices. Mr. Master said a risk exists if the Authority terminated or liquidated with interest rates so low--it could cost hundreds of thousands of dollars (at one point it had been \$350,000 - \$400,000). But a value exists to the Authority if interest rates rise and Lehman owes us and they terminate, or even pay. The remaining swap term is fairly short, at five years.

Mr. Broughal asked if the current amount owed to Lehman can be offset by what Lehman owed us. Mr. Repasch responded the amount is ~\$900 and yes, we can deduct that from the ~\$28,000.

Mr. Broughal also mentioned about the states of Florida and Illinois, where the attorney generals in those states reached a settlement with Lehman (there may be cash available through lawsuits to parties of swaps in those states). Mr. Repasch said our Financial Advisor is aware, but the Lehman issues in those states are different than that of the Authority's issue with Lehman.

Chairman Jobs queried the amount that has been escrowed, and it was said to be \$139,224 in a separate account. He said it is prudent to follow Bond Counsel's advice.

Mr. Master moved for the Authority to make payment to Lehman for the two invoices received and any other invoices as they come due, and to maintain the escrow fund to offset any potential changes in interest rates, or other changes in this matter as they arise. Mr. Gower seconded. Motion passed unanimously.

Wind Energy Consultant Contract. Two wind energy companies contacted and made presentations to the Authority regarding the value of its property for potential wind energy projects – Delsea Energy from New Jersey and Iberdrola USA from Portland Oregon, with its local office in Malvern, Pennsylvania. The Board felt it needed guidance in evaluating these projects. Mr. Repasch made contact with Broadlands Financial Group from the Villanova area, a firm very adept at and involved in renewable energy projects. Last month, their proposal for services was approved which led to the contract being presented today for execution. The Authority's Solicitor reviewed the original contract and the suggested changes were agreed to by Broadlands' attorney. In summary, the contract is for Broadlands to **evaluate** two potential wind energy development proposals to the Authority (Delsea and Iberdrola) to determine which developer

would be best suited to construct and operate a wind energy farm on Authority property at a cost of \$6,000 per developer, or \$12,000 in total.

Mr. Gower queried Broadlands hourly rate for other work if the Authority decides to pursue a wind project. Mr. Repasch responded it was provided initially and from what he recalls it wasn't out of line. One of Broadlands partners, Joseph Lawn, had to cancel being here today; however, he and an engineer from his firm will have kick-off meeting to develop a time table on the evaluation process. If any Board member would like to participate, let him know.

Chairman Jobs reiterated this is a long process, approximately five years from start to finish. This is the first step to determine if the next step is feasible. There is a lot of analysis and evaluation needed, environmentally and financially. Green power is receiving a lot of focus and attention. This Board thinks there is some potential in exploring it, as do the developers who approached us.

Mr. Gower moved to approve the consulting contract with Broadlands Financial Group and to authorize the Chairman and Secretary to execute the contract. Mr. Tallarico seconded. Motion passed unanimously.

Mt. Pocahontas Listing Agreement. Mr. Repasch reported he met with the Chris Miller/Robert Haas Real Estate partnership in Bethlehem about listing the Mt. Pocahontas property located in Penn Forest Township, Carbon County. The property is an approximate 12 acre, odd-shaped and undeveloped lot across the road from and outside of a major portion of the watershed. There had been encroachment issues in the past, and it was determined that the property is of no value to the Authority or City. The property was previously listed at \$160,000 in 2006 with realtor Mark Hilton, but when that expired we had difficulty finding another agent to list with. It was also decided at that time to re-list the property at its appraised value of \$135,000. Miller/Haas is willing to list the Mt. Pocahontas property at a price of \$135,000 for six months at 6% commission (typically realtors charge 10% commission for land). He presented a listing agreement for the Board's approval and execution. The listing agreement has been reviewed by the Authority Solicitor.

Mr. Master moved to approve the Mt. Pocahontas property listing with Chris Miller/Robert Haas at a price of \$135,000 for six months and 6% commission. Mr. Gower seconded. Motion passed unanimously.

Consulting Engineer's Proposal for H2O PA Grant Project. Mr. Repasch presented a proposal from Barry Isett & Associates (BIA) for the engineering oversight of the H2O PA Grant Project, which covers several major infrastructure issues including malfunctioning or non-functioning valves, reservoir and tank work (proposal circulated via email prior to this meeting). BIA submitted the grant application to the State, they have the background on the project, and can start immediately. The proposal is for a cost of \$50,000, which is the maximum allowed under the grant. The Authority Solicitor reviewed the proposal and worked out the legal and technical issues with BIA.

Mr. Neal Kern indicated the proposal is broken down into four areas – bidding, securing contracts, construction administration and design. All of the project improvements show up in previous annual reports. They are extremely important, especially the valves. Some don't work at all, which is not good if there was ever a need to turn off water flow due to a break in the line. The State has indicated the Authority can start incurring costs now that they have received the commitment letter.

Mr. Master is concerned there is a conflict for the Authority's Consulting Engineer to work on the recommendations he made in inspecting and scrutinizing the water system. It should be acknowledged that in the past, consulting engineers were actually working for the City on various projects. Mr. Kern indicated some recommendations go back two and three years, and some are from the previous consulting engineer

Mr. Broughal agrees that if the consulting engineer recommended repairs in the previous annual report and then was given the work, it would raise concerns. That is not the case with this particular contract. Mr. Repasch added he talked at length with Mr. Brong and Mr. Andrews as to who would do the contract. It was decided that since the Authority is the grant applicant and recipient, it was easier for the Authority to undertake the contract. He's had experience in these areas in the past, where the consulting engineer makes recommendations and is hired to do the work because of their knowledge of the (water) system. It would cost significantly more to contract another engineer due to the learning curve. Mr. Gower added that another check and balance is the professionals in the water department not supporting work that is not appropriate.

Mr. Broughal suggests the Board adopt a policy that states the Authority Consulting Engineer cannot bid on proposals for work that is recommended as part of the Consulting Engineer's annual report. After additional Board discussion, Chairman Jobes would like to develop such a policy that sets a threshold of \$50,000. If it exceeds that amount, the work must be bid to other firms.

Mr. Gower moved to approve Barry Isett & Associates proposal for Consulting Engineer oversight of the H2O PA Grant Project. Mr. Tallarico seconded. Motion passed unanimously.

Wild Creek Plantation Silviculture Proposal. Mr. Repasch reported that there are several softwood plantations in the Wild Creek/Penn Forest watershed that were planted 50 to 70 years ago. Their condition is not healthy and some management needs to be addressed. One in particular is a 50-acre conifer plantation that has been looked at over the last several months by Don Oaks, another forester, and two potential buyers of the wood – Brent Backenstoës (Lumber Co.) and Glatfelter Pulpwood Co. (both have done work for the Authority in the past). The original Request For Proposal (RFP) stated the plantation would be thinned to four to six trees per acre remaining. However, after some concerns raised by Mr. Oaks and additional discussions with another forester, the RFP was drastically altered for the plantation to be thinned to an average of approximately 100 trees per acre remaining, which still allows for growth of potential saw timber. Although this reduces potential revenue, it's the best thing to do for this part of the forest. Glatfelter Pulpwood Co. submitted an offer of \$13,300 and Backenstoës Lumber an offer \$12,975. Mr. Repasch is asking the Board to accept the proposal from Glatfelter Pulpwood Co. and to authorize him to negotiate a forest sales contract with them, where all the details of the sale and the work will be itemized.

Mr. David McGuire thanked Mr. Repasch and Mr. Oaks for keeping him informed via email and commented as follows:

- He wanted clarification that the Board wants the Executive Director to pursue this sale further to bring an agreement back to the Board for its approval, which is correct. He's not certain that the proposals promise anything except a possible \$13,300, depending on whether buyers for the timber can be found. Mr. Repasch said the proposal is for a "pay as cut" contract with no guarantees because of the market.

- There is reference made to management in Glatfelter's proposal. To him, management means long-term, continuous commitment as opposed to managing to cut down trees. Is there a concept of management services in this proposal? Mr. Repasch responded that management is part of what Glatfelter is offering but the Authority isn't necessarily accepting that. Glatfelter has management contracts with other landowners, including portions of the Harrisburg Water Authority's forest. There is no potential conflict of interest. Glatfelter is suggesting they can do management for the Authority if that is what it wants.
- Other foresters have been here and there certainly is a lot of experience with Mr. Oaks. He would like information on the other forester who looked at the plantations. Mr. Repasch responded the other forester who offered his services to the Authority was actually recommended by The Nature Conservancy – Robin Wildermuth. His services were not paid for, it was a second opinion (Mr. McGuire) suggested in the first place.
- There is no management plan yet for the Wild Creek Watershed like that of the Tunkhannock Watershed. Why not hire someone to do an oversight management contract, and then the Authority can go to contractors who offer to buy or market the timber? The problem in Tunkhannock was there was no management, mismanagement, and mischief. He is not against the proposal or making objection to it. He is asking questions to better understand it. It seems to have come out of the blue to cut down the trees and make \$13,000. When this was first brought up, he asked why and was told there seemed to be evidence of a disease. Subsequently that is not the problem. Mr. Repasch responded it is obvious not only to a forester but to anyone who looked at the plantation to know that something is wrong with it. It is not healthy. As far as a management plan, they do cost money. He has a meeting next week with Pocono Forests and Watershed Conservation Landscape and he is pursuing a grant through this group to do a management plan for the Wild Creek/Penn Forest Watershed.
- There are several plantations in Wild Creek. Two months from now, would the Authority proceed to the next unhealthy plantation? Mr. Repasch responded yes, there are other plantations in Wild Creek **and even** in Tunkhannock that need attention (there are reasons those can't be gotten to easily). If the Authority would get grant money to do a management plan, he thinks it would be implemented before other silviculture operations. If the Authority doesn't get grant money, the \$13,000 would help pay for a management plan.

Chairman Jobes thanked Mr. McGuire for his comments and felt some good points were raised. He said the health of the plantation is the primary focus of why this is being addressed. In the past timbering was thought to be a proven way to make money, but it was found out otherwise. A management plan is a good idea and his point is well taken. However, we are not doing anything that would be recognized as not prudent.

Mr. Master moved for Mr. Repasch to negotiate a Forest Products Sales Contract with Glatfelter Pulpwood Co. to present to the Board for approval. Mr. Gower seconded. Motion passed unanimously.

Pocono Forests and Watershed Conservation Landscape. Mr. Repasch spoke about a fairly new organization which he is meeting with next week. Pocono Forests and Watershed Conservation Landscape raises awareness of landowner issues occurring in the Pocono area. The co-chair of this organization is Mr. Brad Ellison, who works for the PA DCNR Bureau of Forestry. The Authority is one of the largest landowners in Monroe County and should interact with them. They also have a grant program, and he is applying for a silviculture management plan grant for the Wild Creek/Penn Forest watershed. The deadline to apply is October 22. He will bring more information to the Board next month. Mr. Bud Cook added this organization is an initiative of DCNR.

Chairman Jobes said this is a good organization for the Authority to partner with.

2010 Authority Operating Budget Process. Mr. Repasch reported we have been working on a preliminary budget and it should be done within the next week. He'd like to know how the Board wants to proceed in scrutinizing it. Last year the budget was reviewed line by line with the Chairman. He suggests providing a preliminary budget to Board next week, review line by line, then present the final budget at the November meeting for approval. Mr. Brong needs this as part of his budget to present to City Council. Preliminarily, the budget shouldn't change much from last year. The health insurance figure is always an unknown, and the other issues are the professional fees.

- Chairman Jobes said we must try to come up with a good budget projection for professional fees. Financial advisor fees are significantly over budget this year.
- Mr. Gower commented that it's natural for us to use professional experts to help us work through our issues—financial management, forestry management, and now wind energy. We shouldn't be pennywise with respect to experts, but spending should not be excessive either.
- Mr. Master suggests setting forth areas that may arise next year and use the reserves so the fees are not a part of the annual operating budget. Mr. Repasch added the Authority did that for this budget year with regard to the PUC legal fees (split 50/50 with City) and the operating authority issue (which we just started looking into).

Chairman Jobes does not disagree with the comments. There has been a lot of work especially related to the financial plan. We must stay focused and maybe try to curtail the conversations and other meetings as best as we can. He would like the budget sent out with comments given to Mr. Repasch. He will then review the budget the same as last year.

Fourth Quarter 2009 Income/Expense Projection and Expense Budget Comparative.

Income and Expense Projection for the 4th Quarter 2009:

- Cash on Hand at October 1 - \$353,740 in various accounts
- Revenues Receivable – \$186,790 for the 4th Quarter.
- Total Cash on Hand – \$540,530 at the end of the 4th Quarter.
- Total Projected Professional, Administrative and Police Expenses – \$109,405 overall for the 4th Quarter.
- Total Projected Cash on Hand at the end of the 4th Quarter – \$431,125, which is comprised of mostly the reserve funds.

Expense Budget Comparative for the 9 months ended September 30:

- Professional Services – \$142,517, 96% of budget. Financial advisory fees total \$56,627 out of a budget of \$30,000. This is the bulk of the professional services overage. We can expect more financial advisory costs through the end of 2009, given all the discussions and work they have been asked to do.
- Security and Property Expenses – \$12,153, 36% of budget.
- Administrative Expenses – \$162,232, 69% of budget.
- Overall – \$316,903, 76% or 1% over budget.

Chairman Jobes commented that outside of financial advisory fees, there has been tight expense control.

REPORT OF THE CONTROLLER

Mr. Filipos' report for the month ended September 30, as circulated and filed, was accepted without comment. He noted the City sent in \$771,961.25 for the Hirko debt service payment due October 1.

Audit Proposal. Mr. Filipos reported we just received the City's audited financial report and we should receive the Authority's audited report early next week. He and Mr. Repasch will review them before the next meeting. We did receive an engagement letter from the auditors, Maher Duessel. It is a standard letter for audit services for the years 2009, 2010 and 2011, with fees of \$3,200, \$3,300 and \$3,400 respectively for those years. Maher Duessel is a reputable firm and the fees are reasonable. They are doing a lot of work because they need to do it for the City. He recommends signing the engagement letter, but not until the both audits are reviewed and reported on at next meeting.

Mr. Repasch said the Authority's audit is a blended part of the City's audit, and the Authority receives a separate letter. He would like the Board to approve Maher Duessel's engagement letter today, conditioned upon the review of the Authority's audit letter and report, and to authorize him to sign the engagement letter. The reason is because the City received everything from Maher Duessel for the next three years and have already authorized the work. They would like to get everything back to Maher Duessel in one package (all this information was just received yesterday). The Board concurs that the cost for the audit services is reasonable.

Mr. Master moved to authorize Mr. Repasch to sign the engagement letter with Maher Duessel for their audit services for the next three years, subject to the scrutiny and acceptance of the Authority's audit letter and report, and the continuing recommendation to use Maher Duessel. Mr. Gower seconded. Motion passed unanimously.

Resolution 308 – Approval of Professional and Administrative Expenses. Ms. Reppert presented Resolution 308, as circulated and filed, to the Board for approval. The total amount is \$110,556.93 and consists of the following:

- Requisition 297 - City's water capital invoice totaling \$78,128.52.
- Professional and Administrative expenses totaling \$32,428.41.

Chairman Jobes queried if the Saul Ewing fees are being from BRIF funds. The response was no, they are being paid from operating funds.

Mr. Gower moved to approve Resolution 308 as presented. Mr. Master seconded. Motion passed unanimously.

Ratification of Investment of Excess Operating Funds. A CD investment with Lafayette Ambassador Bank in the amount of \$54,291.84 matured on October 2. The recommendation and action circulated to the Board was to deposit the money in the Team Capital Bank savings account, which is still earning 1.50% interest. This action needs ratification.

Mr. Master moved to ratify the deposit of \$54,291.84 into the Team Capital Bank savings account. Mr. Gower seconded. Motion passed unanimously.

Reinvestment of BRIF Funds. Ms. Reppert reported that several CD investments with the Fulton Financial Inter-Affiliate CD Program matured October 5 and October 6 in the aggregate amount of \$1,218,596.53, and this money has been wired back to the Trustee. In conversation with Chairman Jobes, it was decided to discuss the reinvestment of this money at today's meeting. Prior to sending out bids for a CDARS investment and a Fulton Financial Inter-Affiliate CD, interest rates were sought informally so the Board could be provided with a preliminary recommendation, which was to invest with Fulton Financial for three months at a rate of 1.05%. Subsequently, the interest rate bids received remain unchanged.

Chairman Jobes said our policy is to have diversification and FDIC coverage. In some instances, yield may have to be given up to achieve that. At this point, the yield curve isn't enough to ladder the investment, so it is best to invest the entire amount short term. In the future, rates will get better and we may have more options.

Mr. Gower moved to invest \$1,218,596.53 for three months at an interest rate of 1.05% with the Fulton Financial Inter-Affiliate CD Program. Mr. Tallarico seconded. Mr. Master voted aye. Chairman Jobes abstained.

REPORT OF THE SOLICITOR

No report.

REPORT OF THE CONSULTING ENGINEER

Mr. Neal Kern reported that he is starting work on the 2009 annual report and the water system inspections for the report (he still needs to schedule an additional day to finish the inspections). He reviewed and approved the requisition for the water capital expenses. He's had many conversations regarding the budget and the water capital financing issues. He's been in touch with the Commonwealth Financing Authority concerning the steps involved with the grant project.

REPORT OF BETHLEHEM AUTHORITY SPECIAL POLICE

Officer Meixell's report, as filed and circulated, was accepted. Chairman Jobes queried the Game Commission's controlled burn. Officer Meixell responded he and Mr. Repasch attended the burn, which did not encroach upon or cross Authority property. Chairman Jobes also queried about the emergency training. Officer Meixell responded he and Mr. Repasch attended a workshop session held in Town Hall.

WATER REPORT

The Water Report for the month of September 2009, as filed, indicates the reservoirs are at 99.7% capacity. The report was accepted.

CITY OF BETHLEHEM DIRECTOR OF WATER AND SEWER RESOURCES

Mr. Brong reported the following on the Water Fund as of September 30:

- Actual net income is \$3.5 million against a plan of \$3.4 million.
- Cash on hand is ~\$4.5 million. Revenue continues to under perform but expenses continue to run under budget. Up until a few months ago, consumption was consistent. It was anticipated that consumption during the summer months would increase even with a sluggish economy. That is not the case--consumption continues to run behind plan. Revenue projected at \$3.7 million is actually \$3.1 million
- Invoicings are at \$13.3 million and haven't caught up to plan, even through the summer months. It was a very cool and very wet summer:
 - Average temperature -- 2008-72° v. 2009-70°
 - Average rainfall in June, July, August -- 2008-10.4" v. 2009-17.6" (normal rainfall for the period is 12.6")

Mr. Repasch added that lawn watering is a significant driver of water consumption in the summer months.

PUC Territory Expansion. The City is in the final stages of crafting a settlement proposal with Easton Suburban Water Authority to present to the PUC judge in the next week. Chairman Jobes said the City did a good job in controlling the legal expenses regarding this issue.

OTHER BUSINESS

There was no other business

COURTESY OF THE FLOOR

Councilwoman Belinski requested Mr. Brong to provide her with the information he reported so that she could give it to City Council's Finance Committee Chairperson, Mr. Leeson.

NEXT MEETING DATE

Chairman Jobes indicated that the next regular meeting is scheduled for November 12, 2009 at 3:30PM. There may be a special meeting of the Board prior to that, and Mr. Repasch will keep everyone informed.

ADJOURNMENT

There being no further business, Mr. Master moved to adjourn the meeting. Mr. Tallarico seconded. Motion passed unanimously and the meeting adjourned at 5:00 PM.

Richard L. Master, Secretary